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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,893	12/09/2003	Gary V. Halm	HALM B-2106	4682
24349	7590	04/05/2005	EXAMINER	
WILLIAM R. GUSTAVSON			HAN, JASON	
SUITE 1185			ART UNIT	
9330 LBJ FRWY.			PAPER NUMBER	
DALLAS, TX 75243			2875	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,893

Applicant(s)

HALM, GARY V.

Examiner

Jason M. Han

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 2+3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/3/04 & 6/7/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. Page 5, Paragraph 1, Line 10: Typographical error – please remove one of the periods;
 - b. Page 8, Last Paragraph, Line 1: Grammatical error – “is” refers to a plurality of “benefits” and should read as “are”;
 - c. Page 8, Last Paragraph, Line 6: Grammatical error – “is” refers to a plurality of “costs” and should read as “are”;
 - d. Page 9, Line 6: Preferable semantics – consider using “bright” instead of “light”;Appropriate correction is required.

Claim Objections

2. Claim 1 is objected to because of the following informalities: Applicant recites the limitation, “the head of the operator”, which lacks antecedent basis and should read as “the head of an operator”. Appropriate correction is required.
3. Claim 4 is objected to because of the following informalities: Grammatical error in line 2 of the claim – “activate” should read as “activated”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by

Gebelein et al. (U.S. Patent 5704707).

5. With regards to Claim 1, Gebelein discloses an apparatus including:

- A light source [Figure 2: (56)] positioned on the head of an operator [Figure 1: (14)];
- A first infrared sensitive receiver [Figure 2: (50)] positioned proximate the light source;
- A power supply to power the light source [Figure 2: (54)]; and
- An infrared source [Figure 2: (28)] located remotely from the first infrared sensitive receiver, whereby the first infrared receiver is activated when the head of the operator points the first infrared sensitive receiver at the infrared source (inherent that the infrared receiver is activated when worn and in proximity of the infrared source).

6. With regards to Claim 4, Gebelein discloses the light source [Figure 2: (56)]

being toggled between off and on each time the infrared sensitive receiver is activated [Figure 3].

7. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Gilpin (U.S. Publication 2003/0067769).

Gilpin discloses an apparatus including a light source [Figure 3: (13)] positioned on the head of an operator [Figures 1-2: (101)]. In addition, Gilpin discloses, "Means 8 may also comprise wireless transmission means and support 10 comprises wireless receiving means such that connections 7' are made by infrared or radio transmission instead of wire, thereby requiring a second battery to be associated with the support 10 for power the LED's 13 [Page 3, Paragraph 20; underlines added by examiner for emphasis]."

Allowable Subject Matter

8. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art pertinent to the current application, but are not considered exhaustive:

US Patent 4956752 to Foglietti;

US Patent 5331357 to Cooley et al;

US Patent 5526245 to Davis et al;

US Patent 5637863 to Sanborn et al;

US Patent 6720870 to Morse.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (3/22/2005)


Stephen Husar
Primary Examiner